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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/062,654	02/01/2002	Carl K. Schaab	P/3763-4	4672

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OSTROLENK FABER GERB & SOFFEN  
1180 AVENUE OF THE AMERICAS  
NEW YORK, NY 100368403

EXAMINER

HO, THOMAS Y

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/062,654

**Applicant(s)**

SCHAAB, CARL K.

**Examiner**

Thomas Y Ho

**Art Unit**

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Status of Claims*

Claims 1-5 and 7-22 are pending. Claim 6 has been cancelled.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 7, 12, 17, 19, and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Cronk US6244265.**

As to claim 7, Cronk discloses, a scented product 100 or 200 comprising at least one body 210, a sheet material 230 on the at least one body, and a fragrance-containing microcapsule material 232,260 adhered to the sheet material.

As to claim 12, Cronk discloses, a process for manufacturing a scented product comprising the steps of: providing a product 100 or 200 comprising a body 210, with a sheet material 230 covering said body, and applying a fluid 232 to said sheet material, said fluid containing microcapsules 260 which contain a fragrance.

As to claim 17, Cronk discloses, wherein said fluid 232 is applied by spraying (col.17, ln.1-5).

As to claim 19, Cronk discloses, wherein said sheet material 230 comprises a woven or non-woven fabric (col.7, ln.1-5; col.8, ln.40-46).

Art Unit: 3677

As to claim 21, Cronk discloses, wherein said sheet material 230 comprises a woven or non-woven fabric (col.7, ln.1-5; col.8, ln.40-46).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-2, 5, 7, 12-14, 18, 20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meehan US5826598 in view of DiSapio US4874129.**

As to claim 7, Meehan discloses, a scented product 100 comprising at least one body 402, a sheet material 102,202 on the at least one body, and a fragrance-containing material 504 (an absorbent pad; col.3, ln.8-20) seated in or on the sheet material (col.3, ln.25-40). The difference between the claim and Meehan is the claim recites, a fragrance-containing microcapsule material adhered to the sheet material. DiSapio discloses a fragrance-releasing device similar to that of Meehan, and also used as jewelry and/or on clothing articles. In addition, DiSapio further teaches, a fragrance-containing microcapsule material (the matrix is impregnated with fragrance oil, and so these fragrance oil particles/molecules, are microcapsules; col.3, ln.45-50) adhered to sheet material (the sheet material can be clothing or a purse; col.12, ln.10-15, ln.35-42). It would have been obvious to one of ordinary skill in the art, having the disclosures of Meehan and DiSapio before him at the time the invention was made, to replace the fragrance-containing absorbent pad of Meehan with an adhesive patch device, as in DiSapio, to obtain the product of Meehan with a fragrance-releasing element adhered to the sheet material in the form of an

Art Unit: 3677

adhesive patch. One would have been motivated to make such a combination because the ability to control the rate of release of the fragrance oil, and to interchangeably apply the element to various places/objects would have been achieved, as taught by DiSapio (col.3, ln.50-56; col.12, ln.1-42).

As to claim 1, Meehan discloses, wherein said product 100 is a bracelet (Abstract) comprising a bracelet body 402, said sheet material 102,202 covering the bracelet body, and said fragrance-containing material 504 (an absorbent pad; col.3, ln.8-20) seated in or on the sheet material (col.3, ln.25-40). DiSapio teaches a fragrance-releasing microcapsule material adhered to sheet material.

As to claim 2, Meehan discloses, wherein said material 504 is seated substantially only to an inside surface 706 of said bracelet adjacent to the arm of the wearer. DiSapio teaches a microcapsule material that is adhered to a sheet material.

As to claim 5, Meehan discloses, wherein said material 504 is seated substantially only to an outside surface 702 of said bracelet away from the arm of the wearer. DiSapio teaches a microcapsule material that is adhered to a sheet material.

As to claim 12, Meehan discloses, a process for manufacturing a scented product 100 comprising the steps of: providing a product comprising a body 402, with a sheet material 102,202 covering said body, and applying a fluid 504 to said sheet material (inserting an absorbent pad is applying a fluid; col.3, ln.15-20), said fluid containing molecules which contain a fragrance. DiSapio teaches the fluid containing microcapsules.

As to claim 13, Meehan discloses, wherein said product is a bracelet (Abstract).

Art Unit: 3677

As to claim 14, Meehan discloses, wherein said material 504 is seated substantially only to an inside surface 706 of said bracelet adjacent to the arm of the wearer. DiSapio teaches a microcapsule material adhered to a sheet material.

As to claim 18, Meehan discloses, wherein said material 504 is seated substantially only to an outside surface 702 of said bracelet away from the arm of the wearer. DiSapio teaches a microcapsule material adhered to a sheet material.

As to claim 20, Meehan discloses, wherein said sheet material 102,202 comprises a woven or non-woven fabric (col.2, ln.35-42).

As to claim 22, Meehan discloses, wherein said sheet material 102,202 comprises a woven or non-woven fabric (col.2, ln.35-42).

**Claims 3-4, 8-11, and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meehan US5826598 in view of DiSapio US4874129, and further in view of Stachowski US6227207.**

As to claim 3, Meehan discloses, wherein said bracelet body 402 (Abstract) comprises an elastic material (col.2, ln.63-67). The difference between the claim and Meehan is the claim recites the elastic material permits the bracelet to be slapped onto one arm by a one-handed movement of the other arm. Stachowski discloses a hair accessory similar to that of Meehan. In addition, Stachowski further teaches an elastic material 10 or 33 (33 is contained in a cloth sleeve, similar to the device in Meehan) permits the bracelet to be slapped onto one arm by a one-handed movement of the other arm. It would have been obvious to one of ordinary skill in the art, having the disclosures of Meehan and Stachowski before him at the time the invention was made, to replace the elastic material of Meehan with the elastic material of Stachowski, to

Art Unit: 3677

obtain a slap bracelet hair device. One would have been motivated to make such a combination because the ability to hold hair in a styled configuration would have been achieved, as taught by Stachowski (col.1, ln.19-22, ln.36-45).

As to claim 4, Meehan discloses, wherein said material 504 is seated substantially only to an inside surface 706 of said bracelet adjacent to the arm of the wearer. DiSapio teaches microcapsule material that is adhered to sheet materials.

As to claim 8, Meehan discloses, a body 402, with material 504 seated thereon. DiSapio teaches microcapsule material that is adhered to sheet material on a body. Stachowski teaches a pair of bodies (Figure 19a, 19b) connected together.

As to claim 9, Stachowski teaches, wherein at least one of said bodies includes an elastic material (Figure 19a, 19b) which urges said body automatically into a spiral shape (Figure 20c).

As to claim 10, Stachowski teaches, wherein each of said bodies includes an elastic material (Figure 19a, 19b) which urges said body automatically into a spiral shape (Figure 20c).

As to claim 11, Stachowski teaches, wherein the other one of said two bodies includes an elastic material 128 which stretches and contracts longitudinally (col.8, ln.50-65).

As to claim 15, Meehan discloses, wherein said bracelet (Abstract) comprises an elastic material 402. Stachowski teaches such that the bracelet 33 can be slapped onto one arm by a one-handed movement of the other arm.

As to claim 16, Meehan discloses, wherein said material 504 is adhered substantially only to an inside surface 706 of said bracelet adjacent to the arm of the wearer.

***Response to Arguments***

Applicant's arguments, see the response, filed 2/5/04, with respect to the rejection(s) of claim(s) 1-5 and 7-22 under 103(a) as obvious over Cronk and Stachowski have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Cronk, Meehan, DiSapio, and Stachowski.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US3896995 to Lelicoff discloses a flying insect repellent assembly.

US4950542 to Barker discloses an article having aroma that is applied to jewelry by spraying or dipping.

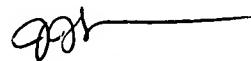
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Y Ho whose telephone number is (703)305-4556. The examiner can normally be reached on M-F 10:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J Swann can be reached on (703)306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3677

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TYH



J. J. SWANN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600